IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION.

INCOME TAX APPLICATION No. 126 of 1999.

The Commissioner of I.T.
Mumbai City III ..Applicant.

Vs.

Shri Chhatrapati Shahu S.S.K.
Kagal, Kolhapur. ..Respondent.

Mr B. M. Chatterjee with Ms P. P. Bhosale
for the Applicant.

None for the Respondent.

CORAM:DR.S. RADHAKRISHNAN
AND V.C. DAGA,JJ.
DATED:25TH JUNE, 2007.

P.C.:-

1. Heard the learned counsel for the Applicant. None present for the respondent.

2. By this application the following question of law is sought to be raised for the purpose of seeking a reference.

(1) Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding in respect of 'Sugar Sales Incentive' is allowable deduction to the assessee, relying on the Supreme Court's decision in the case of "C.I.T. vs. M/s V. A. Raman and Company,(67 ITR 11 SC) "whereas the facts of the case under appeal and the decision relied on the case are different in facts as the sugar is supplied at concessional price to the members of the society, who are also the beneficiaries in profit made of the society?"

3. We have perused the order of the Tribunal dated 27 June, 1997. The Tribunal has observed as under:-

> "The next issue relating to sugar sales incentive is allowed in view of our order dated 8.8.1996 in the assessee's own case. The assessee succeeds on this issue".

4. In view of the above, the Revenue has not challenged the earlier order with regard to the same asseessee, therefore, we are not inclined to entertain this application. The application stands dismissed.

(V.C. DAGA,J.) **(DR.S. RADHAKRISHNAN,J.)**